

REMARKS

Reconsideration of the pending application is respectfully requested on the basis of the following particulars:

1. Amendments and Support for Same

By the Response, independent claims 1 and 17 have been amended in the same manner to more particularly point out and distinctly claim the subject matter of the invention. Support for the amendment to claim 1 and claim 17 can be found in, e.g., Figs. 1, 6 and 7. Specifically, in Fig. 1, for example, it is noted that a rear end (e.g., claws 40) of the moving member (e.g., lancet holder 4) is located within a first space (e.g., decompression space 35), while a front end (e.g., flange 42) is located within a second space (e.g., inner space of the contact portion 36). By the amendments, it is clear that the claimed “portion” of the housing contacting with the moving member, which divides the inner space of the housing into a first space and a second space, is located between the rear end and the front end of the moving member.

No new matter has been added. Accordingly, claims 1-25 are respectfully submitted for consideration. Approval and entry of the amendments are respectfully requested.

2. Rejection under 35 U.S.C. §102(b)

With respect to the rejection of claims 1, 17 and 25 under 35 U.S.C. §102(b) as being anticipated by Mauze (US 6,210,420), Applicant respectfully traverses the rejection at least for the reason that Mauze fails to describe each and every limitation recited in the rejected claims.

As amended, each of claims 1 and 17 recites, among other things, a feature of “the pressure difference causing the moving member to receive a force directed in the retreating direction,” and a feature wherein the moving member includes a rear end and a front end opposite to the rear end, and the rear end being located within the first space, the front end being located within the second space.

In rejecting claims 1, 17 and 25, the Examiner contends in lines 2-8, page 3 of the Action that:

1. Fig. 1 of Mauze discloses a “first space” (156) and a “second space” (unnumbered), wherein the moving member is moved ... by a pressure difference produced between the first space and the second space (column 4, lines 25-41); and
2. Fig. 7 or 8 discloses a “first space” (184, 190) and a “second space” (202), which is separated from the “first space” by a “dividing wall” (179) (i.e., flexible diaphragm), wherein the moving member is moved in the retreating direction ... by a pressure difference produced between the “first space” and the “second space” (columns 5-6, lines 66-67, 1-12).

In response to the Examiner's contentions regarding the embodiment of Fig. 1 of Mauze, Applicant respectfully submits that the Examiner's interpretation that “the moving member is *moved ... by a pressure difference* produced between the first space and the second space (column 4, lines 25-41)” is improper at least for the reasons set forth below.

As the description in column 4, lines 25-41 of Mauze clearly describes, the piston 114 is pulled backward, and thus, the void volume in the head channel 156 is increased, thereby reducing the air pressure therein. Thereafter, the trigger button 152 is pressed to release the finger catch 150 from the well 148A, thereby driving the lancet forward by the actuating spring 140, as shown in columns 3, lines 65-67 to column 4, lines 1-2. In either way, backward or forward, the moving member depicted in Fig. 1 of Mauze is not moved by a pressure difference, but moved manually (i.e., by the hand of the user) or by the actuating spring 140. In light of these, Applicant respectfully asserts that Fig. 1 of Mauze fails to teach, disclose or suggest the features of claim 1 or 17.

Regarding the embodiment of Figs. 7-8 of Mauze, the conventional moving member 178 (or 178+182) as a whole is located within the alleged “first space” (184, 190), and therefore does not have an end which is located within the “second space” 202. Thus, the above-noted feature wherein the rear end being located within the first space, the front end being located within the second space is clearly distinguishable over Mauze. Thus, Figs. 7-8 of Mauze also fails to teach, disclose or suggest the features recited claim 1 or 17.

Consequently, since each and every feature of the present claims is not taught (and is not inherent) in independent claims 1 and 17, as well as in their respective dependent claims 2-4, 6-16 and 18-25, as is required by MPEP Chapter 2131 in order to establish anticipation, the rejection of claims 1, 17 and 25, under 35 U.S.C. §102(b), as anticipated by Mauze is improper.

In view of the amendment and arguments set forth above, Applicant respectfully requests reconsideration and withdrawal of the §102(b) rejection of claims 1, 17 and 25.

3. Rejections under 35 U.S.C. §103(a)

With respect to the rejection of claims 1-4 and 6-25 under 35 U.S.C. §103(a) as being unpatentable over Sato (US 7,131,984) in view of Mauze, Applicant respectfully traverses the rejection at least for the reasons set forth above in relation to the 102(b) rejection of independent claim 1 and 17, and for the reason that Sato and Mauze, combined or separately, fail to teach, disclose, or suggest all of the limitation recited in the rejected claims.

In rejecting claims 1-4 and 6-25, the Examiner contends that the conventional lancing device of Fig. 1 of Sato comprises, among other things, a “moving member” (31), a “first space” (30), and a “second space” (21). However, the alleged “first space” (30) is inside of the “moving member” (31) (i.e., cylinder 31), and the alleged “second space” (21) is completely spaced apart from the “moving member” (31). Thus, the above-noted features of claims 1 and 17, wherein the rear end being located within the first space, the front end being located within the second space, are clearly distinguishable over Sato. Moreover, as discusses above, the same features are also distinguishable over Mauze (the embodiment of Figs. 7-8).

Even if the Examiner relies on a combination of Sato and the embodiment of Fig. 1 of Mauze, claims 1 and 17 are still distinct from the combination, since no needle is attached to the moving member (31) of Sato, as pointed out by the Examiner in line 17, page 4 of the Office Action. In this regard, it is improper for the Examiner to conclude that “*Given the teachings of Mauze, it would have been obvious to one of ordinary skill in the art ... to modify the device of Sato et al. with the moving member and the needle attached to one another,*” as stated in lines 11-14, page 5 of the

Action. Indeed, Sato itself does disclose a needle 10b. Hence, under such circumstances, one of ordinary skill in the art would not be motivated to seek another needle in Mauze. Moreover, one of ordinary skill in the art would not be motivated to attach the needle to the “moving member” (31) of Sato which is accommodated within the casing 4.

In view of the amendment and arguments set forth above, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of claims 1-4 and 6-25.

4. Conclusion

In view of the amendments to the claims, and in further view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is requested that claims 1-25 be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicant’s representative, the Examiner is invited to contact the undersigned at the numbers shown.

Further, while no fees are believed to be due, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-4525.

Respectfully submitted,

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